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EXAMINER	
WOLLSCHLAGER, JEFFREY MICHAEL	
ART UNIT	PAPER NUMBER
1791	

NOTIFICATION DATE	DELIVERY MODE
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No.	Applicant(s)	
	10/796,702	PETERSEN ET AL.	
	Examiner	Art Unit	
	JEFFREY WOLLSCHLAGER	1791	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *12 November 2008*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-3,6-14,16,17,19-27 and 34-41* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-3,6-14,16,17,19-27 and 34-41* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

Applicant's amendment to the claims filed November 12, 2008 has been entered. Claims 6 and 7 are currently amended. Claims 35-41 are new. Claims 4, 5, 15, 18, and 28-33 have been canceled. Claims 1-3, 6-14, 16, 17, 19-27, and 34-41 are pending and under examination.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1, 3, 6-14, 16, 17, 19-26, 34, 35 and 37-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Buzzell et al. (US 6,582,642), which incorporates Kennedy et al. (US 5,260,015) into the disclosure by reference, and further in view of Shepard et al. (US 6,342,285).

Regarding claim 1, Buzzell et al. teach a process of producing stretched fasteners comprising providing a fibrous web layer (Figure 13 and Figure 13a) for employment as the loop member in a hook and loop fastener (col. 14, line 60 - col. 15, line 27); passing the fibrous web layer through the nip formed by two rolls, one of them (14) having cavities that are negatives of a plurality of male fastening elements (Figure 13 and Figure 13a); introducing a molten thermoplastic (col. 2, lines 40-55) resin (20) into the cavities in excess of amount that would fill the cavities which excess forms the web layer (Figure 13a); allowing the resin to at least partially solidify and stripping of the laminate from the roll (Figure 13); stretching the precursor web laminate (Figures 1 and 2; Abstract) either monoaxially or biaxially (col. 11, line 4-col. 12, line 8) to produce a fastener for the intended application (col. 10, lines 50-67). Additionally, Buzzell et al. incorporate Kennedy et al. into their disclosure by reference at col. 15, line 5. Kennedy et al. teach a method of producing laminated hook fastener products wherein they teach that woven or knitted materials (Figure 8; col. 6, lines 38-41) or non-woven materials (Figure 5; col. 5, lines 50-64) may be employed, as desired, to create a laminated article that is capable of engaging into hooks or that can receive other bonding agents (col. 3, lines 5-14). Further, Kennedy et al. suggest optimizing the weight and thickness of the nonwoven layer (col. 5, lines 50-64). Buzzell et al. do suggest the fibrous material employed to form the laminate (Figure 13a) functions as loops in a hook and loop fastener (col. 15, lines 23-27), but do not teach or suggest that employment of a nonwoven fibrous material that is in continuous contact with the thermoplastic web layer (i.e. a nonwoven fibrous material that is not pre-compressed) is employed. However, Shepard et al. teach a method of providing a nonwoven, uncompressed fastener loop material that is less expensive than conventional loop fabrics (col. 1, lines 24-36) that can be stabilized in a stretched condition (col. 1, lines 58-66; col. 5, lines 8-26; col. 17, lines 31-46).

Therefore it would have been *prima facie* obvious to one having ordinary skill in the art at the time of the claimed invention to have modified the method of Buzzell et al. and to have employed a nonwoven, uncompressed, stretchable, fibrous loop material, as the fabric layer of Buzzell et al., as suggested by Shepard et al., for the purpose, as suggested by Shepard et al. of providing stretchable loop material that is less expensive than conventional loop fabrics. The examiner submits that in the combination with Buzzell et al., the uncompressed, nonwoven loop material fed between the rolls (14) and (16) is in continuous contact with the layer of thermoplastic resin (e.g. compare Figure 13 of Buzzell et al. with Figures 1a and 2 of the original disclosure).

The examiner recognizes that Buzzell et al. do not expressly recite all the claimed physical properties and effects. However, the combination employs the same claimed materials and performs the same claimed steps in the same claimed manner. As such, the examiner submits that the same claimed effects and physical properties are intrinsically achieved by the practice of the combined method (e.g. decreasing basis weight to a weight of less than 100 g/m^2). For example, the examiner notes that the nonwoven material of Shepard has a basis weight of about 2 ounces/sq. yard (about 67 g/m^2) or less (col. 1, lines 29-39; col. 7, lines 17-19) and that Shepard identifies stretching as a result effective variable that is selected to reduce the weight of the final product (col. 15, line 65-col. 16, line 4) and the cost of the final product (col. 7, lines 17-19). Additionally, Buzzell et al. teach the thickness of the web is reduced to a thickness as low as about 0.001 inches (col. 13, lines 26-36) (i.e. about 25 um) which is within the range set forth by the instant disclosure (US 2005/0202205; paragraphs [0062] and [0082]).

As to claim 3, Buzzell et al. teach preheating the fastener and heating after stretching (Figure 1 and Figure 2).

As to claim 6, Shepard et al. bond carded webs (Figures 8 and 9) to produce the nonwoven layer of loop material (col. 12, lines 29-46). It would have been obvious to one having ordinary skill in the art to have produced the nonwoven material in the manner as suggested by Shepard et al. in the method of Buzzell et al. for the purpose of reducing the cost of the manufacturing process while still providing a suitable loop material.

As to claim 7, the Shepard et al. employ fibers to produce the nonwoven material (Abstract), including nylon and polyester fibers (col. 2, lines 16-22). It would have been obvious to one having ordinary skill in the art to have employed the loop materials as suggested by Shepard et al. in the method of Buzzell et al. for the purpose of reducing the cost of the manufacturing process while still providing a suitable loop material.

As to claim 8, Shepard et al. suggest controlling and optimizing the diameter and properties of the fibers as required (col.2, lines 1-5; col. 3, lines 27-55; col. 7, lines 34-60).

As to claim 9, Buzzell et al. teach fastener elements having densities in the range of 200-2000 per sq. inch and further teach optimizing the density depending upon the desired final use of the fastener (col. 8, lines 40-65).

As to claim 10, Buzzell et al. teach the thickness of the resin layer is as low as 0.001 inches (about 25 um) and suggest optimizing the thickness as required to impart the required stretchiness (col. 13, lines 26-35).

As to claim 11, Buzzell et al. teach polyethylene, polyesters, and nylon are suitable thermoplastic resins (col. 2, lines 40-55).

As to claims 12-14, Buzzell et al. teach the male elements comprise a stem projecting from the surface of the web layer that includes an enlarged section, such as a J-hook, (Figures 5 – 6B; Figures 7, 7a-7d, 8 and 13a).

As to claims 16 and 17, Buzzell et al. teach biaxially stretching the material to the extent required (col. 11, line 12 -col. 12, line 8; Figure 1 and 2; Figure 12) including stretch ratios ranging from 2-8 (col. 8, lines 4-41).

As to claim 19, Buzzell et al. employ a tenter apparatus (Figure 1 and Figure 2).

As to claims 20 and 21, Shepard et al. suggest the weight of the nonwoven material is about 2 ounces/sq. yard (col. 1, lines 29-39) or less (col. 7, lines 17-19) (i.e. 67 g/m^2 or less). In the combination, this material is stretched to produce the desired hook and loop fastener. Additionally, Shepard et al. suggest that the density of the material is a result effective variable that impacts the cost and weight of the final product. As such, one having ordinary skill would have readily optimized the final density of the loop portion of the fastener material to economically yield a product having the desired properties. Further, Buzzell et al. teach stretch ratios ranging from 2-8 (col. 8, lines 4-41).

As to claims 22 and 23, Buzzell et al. suggest a web having a thickness of about 0.001 inches (about 25 um) and teach stretch ratios ranging from 2-8 (col. 8, lines 4-41; col. 11, line 12-col. 12, line 8).

As to claims 24 and 25, Buzzell et al. teach fastener elements having densities in the range of 200-2000 per sq. inch and further teach optimizing the density depending upon the desired final use of the fastener (col. 8, lines 40-65).

As to claim 26, the combination employs the same claimed materials to practice the same claimed method in the same claimed manner. Accordingly, the same claimed physical properties and effects (e.g. tensile strength in the machine direction) would intrinsically be realized by the practice of the combined method.

As to claim 34, Shepard et al. teach the weight of the material is about 2 ounces/sq. yard (col. 1, lines 29-39) or less (col. 7, lines 17-19) (i.e. 67 g/m^2 or less).

As to claim 35, Buzzell et al. teach monoaxially and biaxially stretching the material to the extent required in the machine and width direction (col. 11, line 12 -col. 12, line 8; Figure 1 and 2; Figure 12) including stretch ratios ranging from 2-8 (col. 8, lines 4-41).

As to claims 37 and 38, the combination performs the same claimed steps in the same claimed manner on the same claimed materials. As such, the examiner submits that implicitly, the same claimed effects and physical properties would be achieved by the practice of the combined method.

As to claim 39, Shepard teaches that the webs can also be produced by various methods including hydro or air current entanglement (col. 17, lines 43-47). Further, Kennedy et al. teach that spunbond webs are suitable for combination with a hook fastener (Example 1).

Claims 2, 40 and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Buzzell et al. (US 6,582,642), which incorporates Kennedy et al. (US 5,260,015) into the disclosure by reference, and further in view of Shepard et al. (US 6,342,285) and de Navas Albareda (US 4,056,593).

Regarding claim 2, Buzzell et al. teach a process of producing stretched fasteners comprising providing a fibrous web layer (Figure 13 and Figure 13a) for employment as the loop member in a hook and loop fastener (col. 14, line 60 - col. 15, line 27); passing the fibrous web layer through the nip formed by two rolls, one of them (14) having cavities that are negatives of a plurality of male fastening elements (Figure 13 and Figure 13a); introducing a molten thermoplastic resin (20) into the cavities into the in excess amount that would fill the cavities which excess forms the web layer (Figure 13a); allowing the resin to at least partially solidify and stripping of the laminate from the roll (Figure 13); stretching the precursor web laminate (Figures 1 and 2; Abstract) either monoaxially or biaxially (col. 11, line 4-col. 12, line 8) for the

intended applications (col. 10, lines 50-67). Additionally, Buzzell et al. incorporate Kennedy et al. into their disclosure by reference at col. 15, line 5. Kennedy et al. teach a method of producing laminated hook fastener products wherein they teach that woven or knitted materials (Figure 8; col. 6, lines 38-41) or non-woven materials (Figure 5; col. 5, lines 50-64) may be employed, as desired, to create a laminated article that is capable of engaging into hooks or that can receive other bonding agents (col. 3, lines 5-14). Further, Kennedy et al. suggest optimizing the weight and thickness of the nonwoven layer (col. 5, lines 50-64). Buzzell et al. do suggest the fibrous material employed to form the laminate (Figure 13a) functions as loops in a hook and loop fastener (col. 15, lines 23-27), but do not teach or suggest that employment of a nonwoven fibrous material that is in continuous contact with the thermoplastic web layer (i.e. a nonwoven fibrous material that is not pre-compressed) is employed. Buzzell et al. also do not teach cutting the precursor laminate in the cross-directions as claimed. However, Shepard et al. teach a method of providing a nonwoven, uncompressed fastener loop material that is less expensive than conventional loop fabrics (col. 1, lines 24-36) that can be stabilized in a stretched conditions (col. 1, lines 58-66; col. 5, lines 8-26; col. 17, lines 31-46) and de Navas Albareda teaches cutting a precursor fastener web in the cross-direction (Figure 1 and Figure 3).

Therefore it would have been *prima facie* obvious to one having ordinary skill in the art at the time of the claimed invention to have modified the method of Buzzell et al. and to have employed a nonwoven, uncompressed, stretchable, fibrous loop material, as suggested by Shepard et al., for the purpose, as suggested by Shepard et al. of providing stretchable loop material that is less expensive than conventional loop fabrics. The examiner submits that in the combination with Buzzell et al., the uncompressed, nonwoven loop material fed between the rolls (14) and (16) is reasonably understood to be in continuous contact with the layer of

thermoplastic resin (e.g. compare Figure 13 of Buzzell et al. with Figures 1a and 2 in the instant application). Additionally, it would have been *prima facie* obvious to one having ordinary skill in the art at the time of the claimed invention to have modified the method of Buzzell et al. and to have cut the web in the cross-direction, as taught by de Navas Albareda because de Navas Albareda suggest that such cutting (and extruding of rib structures) is an equivalent and alternative means of forming fastener products.

The examiner recognizes that Buzzell et al. do not expressly state all the claimed physical properties and effects. However, the combination employs the same claimed materials and performs the same claimed steps in the same claimed manner. As such, the examiner submits that the same claimed effects and physical properties are intrinsically achieved by the practice of the combined method (e.g. decreasing basis weight to a weight of less than 100 g/m^2). For example, the examiner notes that the nonwoven material of Shepard has a basis weight of about 2 ounces/sq. yard (about 67 g/m^2) and that Shepard identifies stretching as a result effective variable that is selected to reduce the weight of the final product (col. 15, line 65-col. 16, line 4). Additionally, Buzzell et al. teach the thickness of the web is reduced to a thickness as low as about 0.001 inches (col. 13, lines 26-36) (i.e. about as low as 25 um) which is within the range set forth by the instant disclosure (US 2005/0202205; paragraphs [0062] and [0082]).

As to claims 40 and 41, the combination performs the same claimed steps in the same claimed manner on the same claimed materials. As such, the examiner submits that implicitly the same claimed effects and physical properties would be achieved by the practice of the combined method.

Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Buzzell et al. (US 6,582,642), which incorporates Kennedy et al. (US 5,260,015) into the disclosure by reference, and further in view of Shepard et al. (US 6,342,285), as applied to claims 1, 3, 6-14, 16, 17, 19-26, 34, 35 and 37-39 above, and further in view of de Navas Albareda (US 4,056,593).

As to claim 27, the combination teaches the method set forth above. Buzzell et al. do not teach cutting the precursor laminate in the cross-directions as claimed. However, de Navas Albareda teaches cutting a precursor fastener web in the cross-direction (Figure 1 and Figure 3).

Therefore, it would have been *prima facie* obvious to one having ordinary skill in the art at the time of the claimed invention to have modified the method of Buzzell et al. and to have cut the web in the cross-direction, as taught by de Navas Albareda because de Navas Albareda suggest that such cutting (and extruding of rib structures) is an equivalent and alternative means of forming fastener products.

Claim 36 is rejected under 35 U.S.C. 103(a) as being unpatentable over Buzzell et al. (US 6,582,642), which incorporates Kennedy et al. (US 5,260,015) into the disclosure by reference, and further in view of Shepard et al. (US 6,342,285), as applied to claims 1, 3, 6-14, 16, 17, 19-26, 34, 35 and 37-39 above, and further in view of either of Song et al. (US 5,534,215) or Gebler et al. (US 3,324,218).

As to claim 36, the combination teaches the method set of claim 35 as set forth above. Further, while Buzzell et al. teach longitudinally stretching the web prior to stretching the web widthwise to pre-orient the film, Buzzell et al. do not teach the longitudinal pre-orientation is performed by passing the laminate over rollers of increasing speed. However, Song et al. teach

a method of orienting a polyester film wherein the film is first stretched longitudinally with rolls of increasing speed and then widthwise (col. 3, lines 1-14) and Gebler et al. teach a method of orienting a polypropylene film wherein the film is first stretched longitudinally with rolls of increasing speed and then widthwise (Figures 4a-4c; col. 1, line 70-col. 2, line 9; Example).

Therefore it would have been *prima facie* obvious to one having ordinary skill in the art at the time of the claimed invention to have modified the method of Buzzell et al. and to have employed rolls of increasing speed to stretch the film longitudinally, as suggested by either of Song et al. or Gebler et al., since each of Song et al. and Gebler et al. suggest such a method is an equivalent and alternative method known in the art to stretch a film (MPEP 2144.06-2144.07). Further, Buzzell et al. suggests pre-orienting the film longitudinally strengthens the web (col. 11, lines 40-49). As such, Buzzell et al. establish pre-orientation of the film in the longitudinal direction as a result effective variable that would have been optimized prior to stretching in the transverse direction.

Response to Arguments

Applicant's arguments filed November 12, 2008 have been fully considered, but they are not persuasive. Applicant argues that the combination of Buzzell et al. and Shepard et al. does not include all the elements of claim 1 and that there is no motivation to modify the methods to arrive at the claimed invention. Namely, applicant argues that the examiner has attributed a process to the combination of Buzzell et al. and Shepard et al. that is not a part of either of the disclosures. This argument is not persuasive. The examiner submits that the combination suggests modifying the method of Buzzell et al., which incorporates Kennedy et al., by utilizing the stretchable web of Shepard et al. to replace the "precompressed" fabric of Buzzell et al. This combination meets the claim. The examiner submits and notes that Buzzell et al. does not

teach that only precompressed fabrics can be employed (e.g. the incorporation of Kennedy et al. suggests and implies otherwise) and that the disclosure of Kennedy et al. shows a variety of backing fabrics can be employed. Additionally, the uncompressed stretchable fabric of Shepard et al. provides a suggestion and motivation to employ materials other than the precompressed fabric exemplified by Buzzell et al.

Further, applicant's argument suggests that Shepard et al. can only be combined with a hook product after it has been stretched by pointing to col. 10, lines 27-37. This argument is not persuasive. The examiner notes that Shepard et al. also teach that applying backing materials in place of or in addition to the binder is also suitable (col. 11, lines 41-56) and that the polymeric binder (col. 9, lines 46-67) is applied prior to stretching (col. 8, lines 53-58). As such, the combination reasonably suggests employing the fabric of Shepard et al. as the fabric material for Buzzell et al.'s method and stretching the thermoplastic laminate simultaneously after the application of binder and/or additional backing material. The binder and its replacement or additional backing material (e.g. the melted thermoplastic of Buzzell et al.) would have been applied prior to stretching. The examiner submits the combination provides a motivation to realize the cost effective and functional benefits of Shepard et al.'s fabric while practicing the stretching method of Buzzell et al. to make a stretched hook-fastener laminate and that the combination of Buzzell et al., which incorporates Kennedy et al., and Shepard et al. quite reasonably suggests simultaneous stretching of the laminate.

Applicant finally argues that the combination changes the principle operation of Shepard et al. This argument is not persuasive. The examiner notes that Buzzell et al. is the primary reference, not Shepard et al. Shepard et al. is applied for their teaching of an uncompressed, stretchable fabric. The examiner submits that the principle operation of Buzzell et al., the

primary reference, is not changed by the combination with Shepard et al. The examiner maintains that the claims would need to be amended to overcome the rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JEFFREY WOLLSCHLAGER whose telephone number is (571)272-8937. The examiner can normally be reached on Monday - Thursday 6:45 - 4:15, alternating Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Johnson can be reached on 571-272-1176. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/J. W./
Examiner, Art Unit 1791

January 30, 2009

/Monica A Huson/
Primary Examiner, Art Unit 1791